



Town of Harpswell
Board of Appeals Application
Variance Request

Code Office
AUG 03 2020
Received

Name of Applicant: STEPHEN PONDELIS ATTARDO PONDELIS ARCHITECTURE
Mailing Address: 81 BRIDGE ST. SUITE 402
City or Town: YARMOUTH State: MAINE Zip: 04096
Telephone: 207 653 9470 Name of Owner: BELLEVUE PROPERTIES LLC
DAVID TASSINARI - KAREN RENTON
Tax Map: 8 Lot Number: 36 Zone: SHORELAND RESIDENTIAL
Location of the Property: 118 LOOKOUT POINT ROAD

A complete application requires the following:

1. Proof of right title or interest must accompany this request
2. Section of the Town's Basic Land Use Ordinance under which variance is being requested

- ☐ Section 14.1.4.2 – undue hardship variance
☒ Section 14.1.4.3 – disability variance
☐ Section 14.1.4.4 – setback variance for single family dwelling
☐ Section 14.1.4.5 – practical difficulty variance (does not apply in shoreland zone)

3. Nature of Variance:

(a) Please describe the ordinance restriction sought to be varied:

HEIGHT RESTRICTION IN SHORELAND ZONE

(b) Please describe the nature and size of the variance sought (e.g., setback, building height)

BUILDING IS 32'-11 1/4" HIGH (ABOVE AVERAGE EXISTING GRADE)
SEEKING TO RAISE IT 2'-0" TO ALLOW FOR ADEQUATE CEILING
HEIGHT IN LOWEST LEVEL TO MAKE IT ACCESSIBLE FOR
DISABLED FAMILY MEMBER

4. Please attach a sketch drawn to scale showing lot lines, location of existing structures and other physical features of the lot pertinent to the relief sought.
5. Justification of the Variance (See Code Enforcement Office for the proper form)

I certify that the factual information contained in this application and all its supplements is true and correct.

Stephen Ponderis

Signature of Applicant

8.01.2020

Date

A complete application must be received three weeks prior to the Board of Appeals meeting date (the 4th Wednesday of the month) in order to ensure placement on the agenda. The Board of Appeals may deem an application incomplete if it finds that the information submitted is inaccurate or insufficient to enable the Board to carry out its duties, in which case consideration of the application will be rescheduled to a subsequent meeting date.

Variance Under BLUO Section 14.1.4.3 – Disability

5. Justification of Variance: Pursuant to 30-A M.R.S.A. § 4353(4-A), the Board of Appeals may grant a variance to a property owner for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. Please explain how your situation meets each of these criteria listed below (attach extra sheets if necessary):

1. Does a person with a disability reside in the dwelling?

☐ Yes
☒ No

2. Does a person with a disability regularly use the dwelling?

☒ Yes
☐ No

3. Is the disability one as defined in 5 M.R.S.A. § 4553(7-A)?

☒ Yes
☐ No

4. Identify the equipment to be installed or the construction of structures necessary for access to or egress from the dwelling by the person with the disability: *MAKING THE DAYLIGHT BASEMENT AN ACCESSIBLE LIVING SPACE WITH ACCESSIBLE BATHROOM*

5. Does the disability have a known duration?

☐ Yes
☒ No

If yes, that duration is: _____

NOTE: The Board of Appeals may impose conditions on the disability variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

§4553-A. Physical or mental disability

1. **Physical or mental disability, defined.** "Physical or mental disability" means:

A. A physical or mental impairment that:

(1) Substantially limits one or more of a person's major life activities;

(2) Significantly impairs physical or mental health; or

(3) Requires special education, vocational rehabilitation or related services; [PL 2007, c. 385, §3 (NEW).]

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; intellectual disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury; [PL 2011, c. 542, Pt. A, §3 (AMD).]

C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or [PL 2007, c. 385, §3 (NEW).]

D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B. [PL 2007, c. 385, §3 (NEW).]

[PL 2011, c. 542, Pt. A, §3 (AMD).]

2. **Additional terms.** For purposes of this section:

A. The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices; and [PL 2007, c. 385, §3 (NEW).]

B. "Significantly impairs physical or mental health" means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population. [PL 2007, c. 385, §3 (NEW).]

QUITCLAIM DEED WITH COVENANT

MARY N. TASSINARI of Auburn, County of Androscoggin, State of Maine, for consideration paid, grants to BELLEVUE PROPERTIES LLC, a Maine limited liability company having a mailing address of P.O. Box 1395, Auburn, ME 04212-1395, with quitclaim covenant real property situated at 118 Lookout Point Road in the Town of Harpswell, County of Cumberland, State of Maine, described as follows:

Beginning on the northeasterly side line of the town road on the corner (southwest corner) of a lot of land sold by Joseph Curtis and George Curtis to Rosilla Gould; thence running North sixty-three degrees East (N 63° E) by land of said Gould one hundred thirty five (135) feet to a stake; thence North fifteen degrees West (N 15° W) parallel with said road, fifty feet to a stake; thence South sixty-three degrees West (S 63° W) one hundred thirty-five (135) feet to said road line; thence South fifteen degrees East (S 15° E) by the road line, fifty (50) feet to the place of beginning.

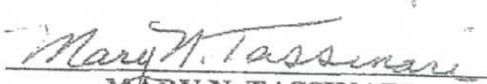
Together with all improvements thereupon and the rights, alleys, ways, waters, easements, privileges, appurtenances and advantages belonging or appertaining thereto.

FOR SOURCE OF TITLE, see a Warranty Deed from Roy R. Tassinari and Mary N. Tassinari, as Trustees of the Tassinari Family Trust to Mary N. Tassinari dated April 20, 2011, recorded in the Cumberland Registry of Deeds in Book 28664, Page 151.

WITNESS my hand and seal this 12th day of February, 2020.



Witness



MARY N. TASSINARI

STATE OF MAINE
ANDROSCOGGIN, SS.

February 12, 2020

Then personally appeared before me the above-named Mary N. Tassinari and acknowledged the foregoing instrument to be her free act and deed.

Received
Recorded Register of Deeds
Feb 18, 2020 11:51:55A
Cumberland County
Nancy A. Lane



Richard L. Trafton, Attorney-at-Law

BELLEVUE PROPERTIES IS CO-OWNED BY
DAVID TASSINARI AND KAREN RENTON:
CHILDREN OF MARY TASSINARI



August 1, 2020

Dear Zoning Board of Appeals Members,

Attached is an application for a variance of the building height limit for properties within the Shoreland Zone. This property, at 118 Lookout Point Road, is currently owned by siblings David Tassinari and Karen Renton. Their mother, Mary Tassinari, has been coming to this house each summer for the past 76 years, since she was 14 years old. Her children are proposing a renovation to preserve its structure, upgrade its systems, insulate and weatherproof it and get it in shape for the next 75 years.

As part of the renovation, the plan is to pick the house up to enable the installation of a new foundation below. The current foundation is part piers, part bulging concrete block, part rubble stone and part open to the weather. It has a dirt floor and a ceiling height of 6'-4" at its tallest, depending on where you stand. The first floor of living space is about 7 feet above the driveway and is accessed only by exterior stairs at the front and rear. It is a steeply sloped lot.

As the plans for the renovation developed it became clear that the ideal scenario would be to have a place at the ground level where Mary Tassinari, who uses a walker presently and expects to be in a wheelchair eventually, could move in and out of the house at that lower level, use a handicapped accessible bathroom at that level, sit out of the weather as needed but still have easy access to and from the yard where she has spent most of the summers of her life. It seems like it fits the notion of being able to age in place.

The application for a variance for Disability asks if a person with a disability regularly uses the dwelling. The answer is yes and it is hoped that Mary can continue to use the dwelling for as long as she is able. She no longer spends the night but she comes to the house almost every day in the summer.

The State of Maine statutes that are referenced in the application ask if a person who regularly uses the dwelling has a physical impairment that "substantially limits one or more of a person's major life activities". The answer is yes. The stairs to the main living level are becoming impossible for Mary. For her to have easy access to a handicapped accessible bathroom and to be able to move in and out of the house as she always has at her summer place, the renovation of the ground floor daylight basement level presents the best opportunity for her continued use of the house.

A new interior stair from the lower level up outfitted with a "stair glide" would still need to be accessed from a code compliant space which the existing condition of the basement does not meet. Travelling from outside through the basement, transferring to a stair glide and then transferring back to a walker or wheel chair at the upper level to get to a bathroom at that level would present a challenge even to someone not disabled, another reason to hope that a code

compliant lower level space outfitted with an accessible bathroom would be permitted through this variance process.

It was already in the plans to lift the house up to install a new foundation below as part of the renovation so the question became: can it be lifted high enough (two feet above existing) to provide accessible habitable space for Mary. She uses the dwelling regularly and meets the definition of a physical disability that limits a major life activity---going up and down stairs---needing the use of an accessible bathroom. It seems within reason and in the spirit of the disability variance to make this request.

Another factor that we hope may have some impact in your consideration is the unique topography of the site, which results in a roof height for this house, even if raised two feet, that would still be lower than the roof of the closely adjacent house, not blocking anyone's view and presumably not looking substantially different when viewed from the water.

On behalf of the Tassinari family, thank you for your time and attention to this request.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Pondelis".

Stephen Pondelis
Attardo Pondelis Architecture
Yarmouth, Maine